

secution, it must be considered as a confession and being made to a Police Officer was inadmissible because of section 25 of the Evidence Ordinance.

MAGISTRATE'S APPEAL.

J. K. Gale for the Appellant.

C. H. Butterfield for the Respondent.

Murray-Aynsley, C. J.:—In this case the appellant was charged as follows:—

That he, on or about the 13th day of May, 1946, at Singapore, not being authorized thereto by licence had in his possession certain firearms, namely, two 38 Smith and Wesson revolvers, in contravention to section 7 (1) A Cap. 196 and punishable under section 74 (4) Cap. 196 Arms and Explosives.

Secondly. That he, on or about the 13th May, 1946, at Singapore, had in his possession explosives, namely 3 rounds of ammunition as included in Class 6 of Part II as published in Gazette Notification No. 519 of 1915 in contravention to rule 6 and punishable under rule 11 Arms and Explosives (Explosives) Rules 1915—1939 made under section 37 of Cap. 196.

The evidence showed that a police officer found two revolvers. Later it was alleged that the appellant came to the police officer and asked him "Have you taken my pistol or not?"

The only point in this case is whether this amounted to a confession.

By section 25 of the Evidence Ordinance no confession made to a police officer shall be proved as against a person accused of any offence.

It should be noted that by the terms of this section it is immaterial whether the person making the confession was in custody or whether he was at that time accused of any offence.

The difficulty in these cases is to distinguish between a mere admission which may be proved and a confession which may not.

As the statement in the present case was sufficient to discharge the burden of proof of the prosecution, it is hard to see how it cannot be considered a confession. The appeal must be allowed and the conviction quashed.

Appeal Allowed.

IN RE THOMAS ERIC ATKINSON.

[Original Civil Juris. (Jobling, J.) January 3, 1947]

Advocates and Solicitors Ordinance (Cap. 62), Section 5 (2)—Petition to shorten period during which Petitioner is required to attend and receive instructions in law in an office in the Colony.

In this case the petitioner prayed the Court inter alia to shorten the period during which he is required to attend and receive instruction in an office in the Colony of a practising Advocate and Solicitor of not less than seven years' standing in the Colony. The petition showed that the petitioner served in the Legal Branch

of the Royal Air Force, South East Asia Command from an unspecified date in 1944 until September 1946 and that part of that service namely from October 1945 till September 1946 was in Singapore. The petition also showed that the petitioner has attended at the office of an Advocate and Solicitor of seven years' standing for 77 days and that he has received instruction from three local Advocates and Solicitors and studied the local laws with a view to admission.

Held, (1) that the policy of Section 5 (3) of the Advocates and Solicitors Ordinance is that practitioners shall, before admission, acquire such knowledge and experience of local laws and practice as will ordinarily be obtained by attending at the office of a local practising Advocate and Solicitor of not less than seven years' standing for the prescribed period; (2) that therefore any special grounds advanced in support of an application under Section 5 (5) of the Advocates and Solicitors Ordinance to shorten the prescribed period must satisfy the Court either, that it is in the public interest or otherwise desirable that this policy should not be strictly adhered to in a particular case, or that the petitioner has acquired the requisite knowledge and experience in a manner or period other than provided; (3) that the facts relied upon by the petitioner in this case were not sufficient to satisfy the Court that he has had an opportunity of acquiring the kind and amount of local knowledge and experience envisaged by Section 5 (3) of the Advocates and Solicitors Ordinance.

PETITION FOR ADMISSION OF ADVOCATE AND SOLICITOR.

R. L. Eber for the Petitioner.

N. A. Mallal for the Singapore Bar Committee.

Jobling, J.:—This petition under the Advocates and Solicitors' Ordinance (Cap. 62) prays the Court

- (1) to shorten the period during which the notice referred to in sub-section (2) of Section 5 of the Advocates and Solicitors Ordinance is required to be posted;
- (2) to shorten the period during which the Petitioner is required to attend and receive instruction in law in an office in the Colony of a practising Advocate and Solicitor of not less than 7 years standing in the Colony; and
- (3) to admit and enrol the Petitioner forthwith an Advocate and Solicitor of this Court.

The first two Prayers are for a relaxation of the Provisions of Sub-sections (2) and (3) of Section 5 of the Ordinance which prescribe, that before an Order shall be made by the Court on a petition for admission, notice of the Petition shall be posted for 6 months at the Registrar's office and the Petitioner (if a Solicitor of the Supreme Court of England as in this case) shall have received instruction in law in the office in the Colony of a practising Advocate and Solicitor of not less than 7 years standing for a period of not less than 6 months. This Court is empowered by Sub-section:

(5) of Section 5 to accede to these two Prayers "on special grounds".

The grant of Prayer 1 would be of no value to the Petitioner unless Prayer 2 was acceded to and the latter therefore calls for prior consideration.

The policy of Section 5 (3) is clearly that practitioners shall, before admission, acquire such knowledge and experience of local laws and practice as will ordinarily be obtained by attending at the office of a local practising advocate and solicitor of not less than 7 years standing for the prescribed period which in the case of this petitioner is 6 months. It follows that any special grounds advanced in support of an application under Section 5(5) to shorten the prescribed period must satisfy the Court either, that it is in the public interest or otherwise desirable that this policy should not be strictly adhered to in a particular case, or, that the petitioner has acquired the requisite knowledge and experience in a manner or period other than that provided.

The petition shows that the petitioner served in the Legal Branch of the Royal Air Force, South East Asia Command, from an unspecified date in 1944 until September 1946 and that part of that service namely from October 1945 till September 1946 was in Singapore. The petition also shows that the petitioner has attended at the office of an advocate and solicitor of 7 years standing for 77 days and that he has received instruction from three local advocates and solicitors and studied the local laws with a view to admission.

On these facts it is submitted that the petitioner has received instruction and practical experience in Singapore since October 1945 and I am asked to shorten the period of 6 months prescribed by Section 5 (3).

The petition is opposed by the Bar Committee of Singapore, which has been represented by Mr. Mallal. Mr. Mallal submitted that if this petition was acceded to, it would open the door to similar applications from persons who had merely studied the local laws. I agree that this aspect requires careful consideration but I find my real difficulty is how to assess the practical value of petitioner's experience in the Legal Branch of the R.A.F. Can one year's experience in the law relating to the Royal Air Force plus 77 days' attendance at the office of a local practising advocate and solicitor be deemed equivalent to the 6 months' experience prescribed by Section 5 (3)? This Court has no knowledge of the work of the Legal Branch of the Royal Air Force and no means of assessing the value

of experience in such work. *Prima facie*, it would appear to be highly specialised work closely concerned with the Royal Air Force law and the petition does not disclose any grounds for assuming that it gives any opportunity for acquiring knowledge and experience of the kind obtainable in the office of a local practising advocate.

There are no grounds for ignoring the policy embodied in Section 5 (3) and the facts relied upon by the Petitioner to support his petition do not satisfy me that he has had an opportunity of acquiring the kind and amount of local knowledge and experience envisaged by Section 5 (3). I am therefore unable to accede to Prayer 2 of the Petition and it is rejected. Prayer 1 must also be rejected as its value depends on the acceptance of Prayer 2.

The remaining Prayer in the petition, namely, that the petitioner should be admitted and enrolled will be adjourned generally, and may be brought on for hearing again in due course by the petitioner subject to compliance with the other provisions of the Ordinance.

Order Accordingly.

THE S. S. MATANG.

[Appellate Civil Jurisdiction (Brown, J. assisted by Commander R. K. Hudson, R.N. and Captain D. W. Clark, as Assessors) May 30, 1947]

Merchant Shipping Ordinance (Cap. 150), Section 306—The Shipping Casualties and Appeals and Rehearings Rules, 1911, Rule 21—Stranding of Vessel—Negligence of Master.

This was an appeal by the Captain of the S. S. Matang from the order of a Court of Investigation appointed to examine the circumstances attending the stranding of the vessel. The short point for decision in the case was whether the appellant was negligent in proceeding to make a land fall after 17 hours steaming by dead reckoning, without taking soundings or other precautions in view of the poor visibility then obtaining and the absence of shore lights or other navigational aids which might have enabled him to check his dead reckoning position.

Held, (1) that the failure to take soundings in order to be excusable must be conditional upon the Captain being satisfied with the dead reckoning position but that in this case it was not excusable as the appellant took no steps to satisfy himself that his dead reckoning position was correct; (2) that in the view of the Court, in no waters can it be other than negligent when making a landfall to assume that no set will take place which may so falsify the dead reckoning position (after 17 hours) as to bring the vessel within dangerous proximity to the offlying dangers of the coast.

Cases referred to:—

- (1) *The Kestrel* (1891) P. 118.
- (2) *The S. S. Takliwa* (1946) Merchant Navy Journal Vol. VIII page 22.